

ESTTA Tracking number: **ESTTA391453**

Filing date: **02/02/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Paxanic Tazoka, LLC
Granted to Date of previous extension	02/02/2011
Address	202 N. Curry Street, #100 Carson City, NV 89703 UNITED STATES
Attorney information	Katherine M. Hoffman Luce, Forward, Hamilton & Scripps, LLP 600 West Broadway, Suite 2600 San Diego, CA 92101 UNITED STATES khoffman@luce.com, sedge@luce.com, clopez@luce.com Phone:619-533-7392

### Applicant Information

Application No	85031228	Publication date	10/05/2010
Opposition Filing Date	02/02/2011	Opposition Period Ends	02/02/2011
Applicant	Keller Associates Network, Inc. 163 8805 Governor'S Hill Dr. Cincinnati, OH 45249 UNITED STATES		

### Goods/Services Affected by Opposition


Class 035. First Use: 2009/04/28 First Use In Commerce: 2009/04/28  
All goods and services in the class are opposed, namely: Advertising, marketing and promotional services related to all industries for the purpose of facilitating networking and socializing opportunities for business purposes; General business networking referral services, namely, promoting the goods and services of others by passing business leads and referrals among group members

### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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### Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	3568576	Application Date	03/23/2004
Registration Date	01/27/2009	Foreign Priority Date	NONE
Word Mark	MARKET VOLUME PROFIT		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 2003/09/30 First Use In Commerce: 2003/09/30 Distributorships in the field of medical supplies, general consumer merchandise, electronic goods, health care products, housewares and household goods, office products, personal care products, and food products; business consultation; business development; business management; business planning; business research; business acquisition and merger consultation; business development services, namely, providing start-up support for businesses of others; business marketing consulting services; business networking; business organizational consultation; business relocation; business relocation consulting

Attachments	78389562#TMSN.jpeg ( 1 page )( bytes ) Paxanic - Ntc of Opp.PDF ( 5 pages )(378282 bytes )
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### Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Katherine M. Hoffman/
Name	Katherine M. Hoffman
Date	02/02/2011

1  
2 **IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
3 **BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**  
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6 In re:

7 Applicant's Mark: MARKET AND PROFIT (Stylized)

8 Serial No.: 85/031,228

9 Filed: May 5, 2010

10 Published: In the Official Gazette on October 5, 2010  
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12

13 Paxanic Tazoka, LLC.

14 Opposer,

15 vs.

16 Keller Associates Network, Inc.

17 Applicant.  
18

OPPOSITION NO. \_\_\_\_\_

**NOTICE OF OPPOSITION**

19 Opposer: Paxanic Tazoka, LLC

20 Citizenship: Nevada Limited Liability Company

21 Address: 202 N. Curry Street, #100  
22 Carson City, Nevada 89703

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1 Paxanic Tazoka, LLC. ("Opposer") believes that it will be damaged by registration of the  
2 mark shown in Serial No. 85/031,228 (the "Application"), and hereby opposes same. The grounds  
3 for the opposition are as follows:

4 1. Opposer is a Nevada Limited Liability Company having its principal office at 202  
5 N. Curry Street, #100, Carson City, Nevada 89703.

6 2. Upon information and belief, Keller Associates Network, Inc. ("Applicant") is a,  
7 Ohio corporation having a place of business at 163 8805 Governor's Hill Drive,  
8 Cincinnati, Ohio 45249.

9 3. Opposer is the owner of and has used the mark MARKET VOLUME PROFIT  
10 ("Opposer's Mark"), which is the subject of Registration No. 3,568,576, in  
11 interstate commerce with services including "Distributorships in the field of  
12 medical supplies, general consumer merchandise, electronic goods, health care  
13 products, housewares and household goods, office products, personal care products,  
14 and food products; business consultation; business development; business  
15 management; business planning; business research; business acquisition and  
16 merger consultation; business development services, namely, providing start-up  
17 support for businesses of others; business marketing consulting services; business  
18 networking; business organizational consultation; business relocation; business  
19 relocation consulting" ("Opposer's Services").

20 4. Applicant seeks to register the mark MARKET AND PROFIT ("Applicant's  
21 Mark") in connection with "Advertising, marketing and promotional services  
22 related to all industries for the purpose of facilitating networking and socializing  
23 opportunities for business purposes; General business networking referral services,  
24 namely, promoting the goods and services of others by passing business leads and  
25 referrals among group members" ("Applicant's Services").

26 5. Opposer has used Opposer's Mark in interstate commerce with Opposer's Services  
27 since at least 2003, a date long that is prior to Applicant's alleged date of first use  
28 of April 28, 2009, and prior to the filing date of the Application of May 5, 2010.

6. Upon information and belief, neither Applicant nor any predecessor of Applicant has made any actual or constructive use of Applicant's Mark prior to May 5, 2010, the filing date of the Application.
7. Upon information and belief, neither Applicant nor any predecessor of Applicant has made any actual or constructive use of Applicant's Mark prior to April 28, 2009, the date of first use identified in the Application.
8. Applicant's Mark is similar to Opposer's Mark in appearance, sound and meaning.
9. Applicant's Mark MARKET AND PROFIT (Stylized) is comprised of two of the three terms depicted in Opposer's Mark, MARKET VOLUME PROFIT.
10. Applicant's Services are related to Opposer's Services in that the parties' respective services are provided to the same or similar class of purchasers, are available for sale through the same or similar channels of trade, and/or are general business services.
11. Applicant's use and registration of Applicant's Mark are likely to cause confusion and lead consumers to believe that Applicant and Opposer are related to, associated with and/or sponsored by one another.
12. Opposer's Mark is inherently strong and has been registered on the Principal Register since 2009 without a showing of acquired distinctiveness.
13. Notwithstanding Opposer's prior rights in and to Opposer's Mark, Applicant is seeking to register Applicant's Mark for related services.
14. Applicant's Mark so resembles Opposer's Mark that it is likely, when Applicant's Mark is applied to Applicant's Services, to cause confusion or mistake or to deceive persons by creating the erroneous impression that Applicant's Services originate from the same source as Opposer's Services, or are endorsed by, sponsored by, or connected in some way with Opposer, and the registration thereof is injurious to Opposer.

1       15.     Applicant's use and registration of Applicant's Mark with Applicant's Services is  
2             likely to cause confusion among consumers as provided under Section 2(d) of the  
3             Lanham Act.

4       16.     Applicant's use of Applicant's Mark is without Opposer's license, permission or  
5             consent.

6       17.     Registration of Applicant's Mark would provide Applicant with prima facie  
7             exclusive rights therein and would interfere with Opposer's rights in Opposer's  
8             Mark.

9       18.     Opposer has the right to continue using Opposer's Mark in connection with its  
10            services without interference by Applicant and without a likelihood of confusion,  
11            mistake or deception.

12       WHEREFORE, Opposer believes that it will be damaged by registration of the Application  
13       and prays that registration be denied.

14       The filing fee of \$300.00 is submitted herewith.

15  
16     Dated: February 2, 2011

Respectfully submitted,

17  
18     By: 

19             Katherine M. Hoffman  
20             Attorney for Applicant

21             LUCE, FORWARD, HAMILTON & SCRIPPS LLP  
22             600 West Broadway, Suite 2600  
23             San Diego, California 92101  
24             Telephone: (619) 533-7392  
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**PROOF OF SERVICE**

I am employed in the City and County of San Diego; I am over the age of eighteen years and not a party to this action. My business address is Luce Forward Hamilton & Scripps, LLP located at 600 West Broadway, Suite 2600, San Diego, California 92101.

On February 2, 2011, I served the foregoing document(s) described as:

**NOTICE OF OPPOSITION**

by placing true copies thereof enclosed in a sealed envelope addressed as follows:

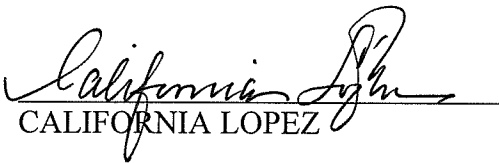
Keller Associates Network, Inc.  
163 8805 Governor's Hill Drive  
Cincinnati, Ohio 45249

☐ (BY PERSONAL SERVICE) I caused to be delivered such envelope by hand to the persons named above.

☒ (BY FIRST CLASS U.S. MAIL SERVICE) I placed such envelope(s) for collection and to be mailed on this date following ordinary business practices.

☒ (State) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at San Diego, California, on February 2, 2011.

  
CALIFORNIA LOPEZ

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